THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.7590 of 2006

Dated:09.06.2006

Between:
Vadla Balaiah Chary, S/o.Late Ramulu, and others.

..... PETITIONER

AND

The Joint Collector, Mahaboobnagar District, and another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.7590 of 2006

ORDER:

The petitioners are aggrieved by a communication in Case No.D1/37/2006, dated 07.02.2006, issued by the first respondent directing the Sub-Registrar, Makthal, of Mahabubnagar District, not to register the lands bearing Survey Nos.142, 143, 143/Paiki and 159 admeasuring Acs.21.26 guntas situated at Kachwar Village of Makthal Mandal. The brief fact of the matter leading to filing of the Writ Petition is noticed in the ensuing paragraph.

The petitioners, who are three in number, are sons of one Ramulu. The second respondent herein is the nephew (son of sister) of late Ramulu. The petitioners state that the younger brother of Ramulu, by name Narsimlu, was a lunatic till his death and remained childless. After the death of the father, the petitioners inherited the land admeasuring Acs.21.26 guntas in Survey Nos. 142, 143, 143/Paiki and 159 of Kachwar Village. The second respondent herein claimed that late Narsimlu (who was allegedly of unsound mind and died childless) executed a Will, dated 11.07.1981, in his favour bequeathing the subject property. Therefore, aggrieved by the mutation effected in favour of the petitioners, presumably, after the death of Ramulu, the second respondent preferred a revision before the first respondent under Section 9 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for short 'the Act'). It appears, the second respondent also filed an application on 05.12.2005 seeking a direction to the Sub-Registrar, Makthal, not to register any sale deed in relation to the land in Survey Nos. 142, 143, 143/Paiki and 159 at Kachwar Village of Makthal Mandal. On such application the impugned proceedings came to be passed, aggrieved by which, the present writ petition is filed.

The learned Counsel for the petitioners, Sri K.Govind, would place reliance on Section 9 of the Act and Rule 23 of the Andhra

Pradesh Rights in Land and Pattadar Pass Books Rules, 1989 (for short 'the Rules'), and submits that the Joint Collector has no power or authority to direct the Sub-Registrar not to register the document in respect of the land which is the subject matter of the revision. He also placed reliance on the decision of this Court in **Smt.K.Saritha v. The District Collector, Ranga Reddy**[1]. **Per contra,** Sri V.V.Narasimha Rao, the learned Counsel would place reliance on Sections 6-B and 6-D of the Act in support of the contention that in the present dispensation unless and until proper entries are made/modified in the pass book, no registering authority can accept a document for registration, and therefore, there is nothing wrong in the Joint Collector directing the Sub-Registrar not to register the document.

It is now axiomatic that any quasi judicial authority constituted under the statute has to act strictly in accordance with law under which such authority is constituted and by which he is vested with the powers. Section 9 of the Act, which confers power of revision on the Joint Collector enables the Joint Collector either to modify, confirm, reverse or remand the order if he comes to the conclusion that the order passed under the Act by any recording authority, the Mandal Revenue Officer or the Revenue Divisional Officer under Sections 3, 5, 5-A or 5-B of the Act is irregular, incorrect or improper. Rule 23 of the Rules contains the procedure when a revision is presented for consideration. These provisions or Sections 3, 5, 5-A or 5-B of the Act do not even remotely suggest that the Joint Collector has power to prohibit the registration of documents even if such documents are in relation to the land, which is the subject matter of the revision. No such power inheres the Joint Collector, i.e., the revisional authority. The submission of the learned Counsel for the second respondent based on Sections 6 and 6-D of the Act is wholly misconceived. These two provisions cannot be read in isolation. They have to be read along with Section 6 of the Act, which creates the presumption in favour of the record of rights as to its correctness, unless contrary is proved. Section 6-B of the Act requires every pass book holder to get necessary entries recorded in the pass book as and when such pass book holder presents the document of title deed before the registering authority. As noticed hereinabove, Section 6 of the Act carries a rebuttable presumption with regard to the entries made in the record of rights. In this case there is no denial that the petitioners, after the death of their father, Ramulu, got their names mutated in the revenue records and obtained pass books. Unless and until the second

respondent succeeds in the revision petition, the presumption under Section 6 of the Act must go to the benefit of the petitioners. If the impugned order is allowed to stand, the same would nullify the presumption created by Section 6 of the Act. The impugned order is therefore, unsustainable.

The Writ Petition is therefore, allowed with costs quantifying at Rs.2,000/- (Rupees Two Thousand only).

(V.V.S.RAO, J)

09.06.2006
vs

[1] 2006(1) A.P.L.J 3(SN)